

2600 PREKINDERGARTEN EDUCATION Effective: ~~January 16, 2011~~ July 1, 2016

Selected Definitional Sections and Statutory Authority

See 16 V.S.A. § 11(a)(31) for the definition of “prekindergarten education.” See also 16 V.S.A. § 11(a)(6) for the definition of “kindergarten,” 16 V.S.A. § 1073(a) for the definition of “legal pupil;” ~~and 16 V.S.A. § 1121 regarding mandatory attendance by school-age children.~~

2601 Statement of Purpose and Applicability

The purpose of prekindergarten education is to provide young children with opportunities to reach their full growth and developmental potential. These rules establish standards for prekindergarten education which ~~may shall~~ be offered by local school districts in accordance with 16 V.S.A. § 829. ~~Nothing herein shall be construed as mandating the establishment, continuation or expansion of prekindergarten education by a school district, or as creating an entitlement to prekindergarten education.~~

2602 Definitions

The following definitions shall apply to terminology which is used throughout these rules:

(1) **Average Daily Membership (ADM).** Average daily membership is defined in accordance with 16 V.S.A. § 4001(1); A district of residence may include within its average daily membership any prekindergarten child for whom it has provided prekindergarten education or on whose behalf it has paid tuition pursuant to this section.

(2) **Developmentally Appropriate.** Developmentally appropriate describes practices which are based upon principles of how children develop and learn, as articulated by the National Association for the Education of Young Children (NAEYC); these practices are responsive to each child’s individual strengths, interests and needs, and are aligned with Vermont’s Early Learning Standards;

~~(3) **Effective and Efficient.** A prekindergarten education program that operates effectively and efficiently is one that meets the needs of children and families, produces measured and evidenced outcomes for children in accordance with the Vermont Early Learning Standards, minimizes transitions for children, and does not exceed what it would cost the school district to operate a comparable program;~~

(3) **Effective Parental Participation.** Effective parental participation in a prekindergarten education program means the opportunity for parents and guardians to be actively involved in the program, and may include involvement in program development, policy work, program evaluation, curriculum development, and helping in the class;

(4) **Essential Early Education Services.** Essential Early Education services (EEE) means early childhood special education services and supports for eligible children which are provided pursuant to Part B of the Individuals with Disabilities Education Act, and in accordance with 16 V.S.A., Chapter 101, and which may be provided as part of a prekindergarten education program;

(5) **Full-time Equivalent for Prekindergarten.** For purposes of ADM, A a full-time equivalent for prekindergarten is defined as ten hours of prekindergarten education per week for 35 weeks

~~annually. If a child is enrolled in prekindergarten education for between six and ten hours per week, the child is counted as a percentage of one full-time equivalent. A child who is enrolled in prekindergarten education for fewer than six hours per week shall not be included in the district's ADM;—~~

(6) **National Accreditation.** National accreditation means accreditation by the National Association for the Education of Young Children;

~~(7) **Parental Participation.** Parental participation in a prekindergarten education program means the opportunity for parents and guardians to be actively involved in the program, and may include involvement in program development, policy work, program evaluation, curriculum development, and helping in the class;—~~

~~(8) **Potentially Qualified Prekindergarten Education Program.** A potentially qualified prekindergarten education program or provider is determined by the Department of Education as being expected to meet all standards for qualified program status before the upcoming school year. Potentially qualified programs or providers must meet all quality requirements by July 15 in order to enter into a partnership with a school district for the upcoming school year.—~~

~~(9) (7) **Prekindergarten Child.** Prekindergarten child means: a child who is three, four or five years of age by the date established by the district of residence for kindergarten eligibility and not yet enrolled in kindergarten.~~

~~(a) — A three or four year old child who is enrolled in a prekindergarten education program;—~~

~~(b) — A child who is receiving essential early education pursuant to 16 V.S.A. § 2965; or~~

~~(c) — A five year old child who is enrolled in a prekindergarten education program, and who is not yet eligible for, or who is eligible for but not going to kindergarten;—~~

~~—~~

~~(10) (8) **Prekindergarten Education.** Prekindergarten education means services designed to provide ~~developmentally appropriate early development and learning experiences that are based on Vermont's early learning standards to children who are three and four years of age, and to five year old children who are not eligible for, or enrolled in, kindergarten; to prekindergarten children with developmentally appropriate early learning and developmental experiences based on Vermont's Early Learning Standards.~~~~

[moved from after Program expansion to be alphabetical]

~~(12) (9) **Prequalified Prekindergarten Education Program.** A prequalified public or private prekindergarten education program means a program or provider of prekindergarten education which at a minimum satisfies the requirements set forth in the educator licensing and program quality standards specified in Sections 2606 and 2607 Sections 2604-2606 of these rules and that has been approved by the Agencies of Education and Human Services;~~

(10) **Program Expansion.** Program expansion is when a ~~school~~ district seeks to increase the number of children served in a district operated program included in its ADM count and such an increase would require additional ~~contracts, personnel, teachers~~ and/or classrooms;

~~(12) **Prequalified Prekindergarten Education Program.** A prequalified public or private prekindergarten education program means a program or provider of prekindergarten education~~

~~which at a minimum satisfies the requirements set forth in the educator licensing and program quality standards specified in Sections 2606 and 2607 Sections _____ of these rules;~~

~~(13)~~ **(11) School District.** School district is defined in accordance with 16 V.S.A. § (11)(a)(10);

~~(14)~~ **(12) Step Ahead Recognition System (STARS).** The Step Ahead Recognition System is ~~the department for children and families'~~ Vermont's graduated quality rating and improvement system (QRIS) for early ~~childhood~~ learning and development programs, based upon ~~that department's~~ the state's established program quality standards;

(13) Tuition. Tuition in these rules means the annual statewide rate paid by a district to a public or private prequalified prekindergarten education program for ten hours per weeks for 35 weeks annually for prekindergarten education.

~~(15)~~ **(14) Vermont Early Learning Standards (VELS).** The Vermont ~~E~~early ~~L~~earning ~~S~~tandards are state-recognized performance standards and learning outcomes for ~~three and four-year-old~~ children birth through grade three.

2603 ~~Establishing or Expanding~~ Access to Prekindergarten Education

- ~~(1)~~ Each prekindergarten child whose parent or guardian enrolls the child at the child's district of residence is entitled to no less than ten hours per week for 35 weeks annually of publicly funded prekindergarten education at an available prequalified prekindergarten education program operated by a public school or private program.
- ~~(2)~~ When a parent or guardian enrolls a prekindergarten child in his/her district of residence, the district of residence shall either:
 - a. Provide the child a prequalified prekindergarten education program that it operates;
or
 - b. At the request of the parent or guardian, pay tuition to a prequalified prekindergarten education program operated by a public school outside the district or a private program.
- ~~(3)~~ If requested by the parent or guardian, the school district of residence shall pay tuition to a public school or private prequalified program even if it operates its own prekindergarten program.
- ~~(4)~~ If a district has an approved "prekindergarten region" pursuant to Section 2609(8) of these Rules, it is only obligated to pay tuition to a prequalified prekindergarten education program within the approved region.
- ~~(5)~~ Each district will establish enrollment procedures for prekindergarten children. Each district will notify parents and guardians of the right to and availability of publicly funded prekindergarten education and of the enrollment procedures through a variety of sources adequate to inform parents and guardians throughout the district. To be entitled to publicly funded prekindergarten education, a parent or guardian must comply with the enrollment procedures in the district of residence.

- (6) A child receiving EEE services may receive those services in a prequalified prekindergarten education program. A Local Education Agency (LEA) may, but is not required to, provide EEE services outside of the LEA, even if a child is attending an out-of-district prekindergarten program.
- (7) If the demand for publicly funded prekindergarten education exceeds the capacity of existing prequalified prekindergarten education programs operated by public schools and private programs in a region, a district is not required to begin or expand a program to satisfy such demand; but the district will collaborate with the Agencies of Education and Human Services and the local Building Bright Futures Council to develop a regional plan to expand capacity for additional prequalified prekindergarten programs. Demand is considered to exceed capacity when a parent or guardian enrolls his or her prekindergarten child in the district of residence and there is no available prequalified prekindergarten education program operated by a public school or a private program with capacity to admit the child for 10 hours per week for 35 weeks annually.

2606 2604 Prequalified Prekindergarten Education Programs Status

(1) Only children enrolled in prequalified public school or private prekindergarten education programs shall be included in a school district's ADM count. A public school or private prekindergarten education program shall be considered prequalified only if it meets all of the following criteria:

(a) The public or private program receives and maintains at least one of the following quality program recognition standards:

~~(1i)~~ National accreditation through the National Association for the Education of Young Children (NAEYC);

~~(2ii)~~ A minimum of four stars in Vermont's Step Ahead Recognition System (STARS), with at least two points in each of the five arenas; or

~~(3iii)~~ Three stars in the Vermont STARS system if the program has a plan approved by the ~~commissioner~~ Department for eChildren and fFamilies and the ~~commissioner~~ Secretary of eEducation to achieve four or more stars within ~~three~~ two years, including at least two points in each of the five arenas, and if the program has met intermediate steps;

(b) The public or private program is currently licensed or registered, as applicable, by the Department for Children and Families, and is in good regulatory standing;

(c) The public or private program's curricula are aligned with the Vermont Early Learning Standards;

~~(d) The program provides opportunities for parental involvement and participation. These opportunities may include involvement in program development, policy work, program-~~

~~evaluation, curriculum development, and helping in the class; and~~

~~(e)(d)~~ The public or private Pprogram staff meets the professional standards described in Section 26075 of these rules.

(e) The public or private program provides a secular prekindergarten education program.

- (2) In order to be approved as a prequalified prekindergarten education program, a public school or private program must apply for approval to the Agencies of Education and Human Services on a form provided by the Agencies for that purpose by an annual date established by the Agencies. Upon receipt of a complete application, the Agencies have thirty business days to process the application.
- (3) Once approved, a prequalified public school or private program must report any changes in compliance with the criteria listed above to the Agencies of Education and Human Services within five days of the change. A lack of compliance with the above criteria may result in revocation of approval as a prequalified prekindergarten education program.

2607 2605 Staff Qualifications

In addition to meeting all the applicable early childhood program licensing regulations of the Department for Cchildren and Ffamilies, staff in prequalified public and private prekindergarten education programs shall meet the following qualifications:

- (1) Teachers in each prekindergarten classroom in a district-operated prekindergarten education programs shall ~~be licensed~~ hold a valid Vermont educator license with an endorsement in either early childhood education or early childhood special education;
- (2) Each ~~contracted licensed center~~ private prequalified prekindergarten education program operated in a licensed Center Based Program shall employ, or contract for the services of, at least one teacher who ~~is licensed~~ holds a valid Vermont educator license and endorsed with an endorsement in either early childhood education or early childhood special education. Ten hours that the licensed teacher is present shall coincide with the hours of prekindergarten education paid for by tuition from districts;
- (3) The operator of each registered or licensed Family Child Care Home approved as a prequalified prekindergarten education program shall ensure that one of the following requirements is met:
 - (a) The operator holds a valid Vermont educator license with an endorsement in either early childhood education or early childhood special education; or
 - (b) The operator employs or contracts with the services of a teacher who holds a valid Vermont educator license with an endorsement in either early childhood education or early childhood special education for at least ten hours per week for 35 weeks annually . Ten hours that the licensed teacher is present shall coincide with the hours of prekindergarten education paid for by tuition from district; or
 - (c) The program receives regular, hands-on active training and supervision from a teacher who holds a valid Vermont educator license with an endorsement in either early childhood education or early childhood special education at least three hours

per week, during each of the 35 weeks per year in which prekindergarten education is paid for by tuition from districts. The operator shall maintain appropriate written documentation of the supervision on location; and

~~(3) The operator of each prequalified registered home shall either be a teacher who is licensed and endorsed in early childhood education or early childhood special education, or shall employ or contract for the services of at least one teacher who is licensed and endorsed in either early childhood education or early childhood special education, or in the alternative, shall receive regular, hands-on active training and supervision from a teacher who is licensed and endorsed in either early childhood education or early childhood special education. Under this last arrangement, the regular, active training and supervision shall occur at least three hours per week, and during each of the 35 weeks per year in which ADM-counted children are enrolled. The registered home shall maintain appropriate written documentation of the supervision on location; and~~

(4) Nothing in these rules shall be construed as restricting the ability of a public district or a private prequalified prekindergarten education provider program from filling a staff position with an individual who holds a provisional or emergency license. Under such circumstances, however, ~~the district~~, the public or private prequalified private prekindergarten education program provider, and the holder of the provisional or emergency license, shall meet all of the terms and conditions of VSBPE Rules 5350-5364 and their successor rules. When a public or private prekindergarten program provider is unable to employ a licensed educator for the purpose of meeting the staff qualification requirements of these rules becoming a qualified private provider, a superintendent may, but is not required to, on behalf of the requesting public or private prekindergarten education program private provider, and pursuant to the terms and conditions of VSBPE Rules 5350-5364 and their successor rules, apply to the department Agency of Education for a provisional or emergency license for one or more individual(s) whom the qualified private provider program wishes to employ or contract with in order to meet the staff qualifications requirements. ~~have provide prekindergarten program services under these rules.~~ Under such circumstances, the superintendent shall monitor the progress and completion of the required two year plan for obtaining a Level I license. ~~The mere act of a superintendent applying, on behalf of a qualified provider, for a provisional or emergency license, shall not obligate the district to contract with that (or any other) qualified private provider.~~

2605 2606 Districts Operating Prekindergarten Education Programs Requirements of Prequalified Prekindergarten Programs

~~(1) Subject to the requirements of Rules 2603(5) and 2608(3), a school district may also provide prekindergarten education by establishing and operating a program either within a public school, or through a facility which is not physically part of a public school. All such district-operated prekindergarten education programs, regardless of where they are physically located, shall be licensed through the department for children and families, and shall be in good regulatory standing; and-~~

~~(2)~~ (1) Any ~~district-operated~~ prequalified public or private prequalified prekindergarten education program shall:

~~(a) Maintain its status as a qualified prekindergarten program in accordance with Sections 2606 and 2607 of these rules, and shall report any change in this status, including alleged or proven violations of program licensure or other requirements, to the department of education, within five days of such change;-~~

~~(b)~~ (a) Adhere to all applicable federal and state laws regarding including, but not limited to, Part B of the Individuals With Disabilities in Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973, the Americans With Disabilities Act (ADA) and Title VII of the Civil Rights Act of 1964 non-discrimination;

~~(c)~~ (b) ~~Provide~~ Implement a developmentally appropriate curriculum which is aligned with Vermont's Early Learning Standards;

~~(d)~~ (c) Provide prekindergarten education for a minimum of 10 hours per week for thirty-five (35) weeks per academic year;

~~(e)~~ (d) Conduct child development assessments of each child enrolled ~~for at least four hours per week, using one or more instruments~~ the assessment tool approved by the ~~department~~ Agency of ~~E~~education, at least two times a year, and report the results of those assessments to the ~~department~~ Agency of Eeducation by July ~~31st~~ 30;

~~(f)~~ (e) Provide parents or guardians with a report of their child's ~~children's~~ developmental progress at least twice per year, and offer parents at least two opportunities per year to meet with the teacher;

~~(g)~~ (f) Provide opportunities for effective parental involvement and participation. These opportunities may include involvement in program development, policy work, program evaluation, curriculum development, and helping in the class; and

~~(h)~~ (g) ~~Describe and provide opportunities for parental participation;-~~

~~(i)~~ (h) Permit on-site visits, announced and unannounced, by representatives from the ~~department~~ Agency of Eeducation, ~~and~~ the Department for Children and Families, and district staff;

(h) Complete reports for enrollment, attendance, child assessment, costs of prekindergarten education, finances and other areas as required by state law and the ~~department~~ Agency of Education; and—

(i) Participate in training which may be required for the purpose of fulfilling the program's responsibilities under tuition agreements with districts;

(j) With respect to children receiving EEE services who are enrolled in the prekindergarten education program, comply with all requirements of state and federal laws governing IDEA Part B and Essential Early Education, including allowing access to EEE service providers; and

(k) Participate in the state approved prekindergarten education monitoring system described in Section 2612.

~~(j) Comply with all requirements of any applicable state and federal laws governing essential early education.—~~

2604 2607 Contracting Agreements with Existing PreqQualified Prekindergarten Programs

(1) School districts that ~~pay tuition to provide prekindergarten education by entering into contracts with existing prequalified prekindergarten education programs providers~~ shall enter into written ~~contracts agreements~~ which, at a minimum, shall include the ~~following provisions: all the requirements set forth in Section 2606 above and a provision that (a) That the prequalified provider shall: (1) Maintain its status as a prequalified prekindergarten education program in accordance with Sections 2604, 2605 and 2602 2606 and 2607 of these rules, and report any change in this status, including alleged or proven violations of program licensure or registration requirements, to the school district, within five days of such accusation or finding.;~~

(2) A school district may create new agreements with or continue existing partnerships with prekindergarten education programs that are not prequalified if the school district provides supports that enable the program to fulfill the requirements of Section 2605 (1) and (2). The statewide tuition rate for prekindergarten education does not apply to non-eligible prekindergarten programs; the district and the non-qualified partner shall negotiate tuition amounts.

~~(2) Adhere to federal and state laws on non-discrimination which apply to private providers;—~~

~~(3) Provide a developmentally appropriate curriculum which is aligned with Vermont's Early Learning Standards;—~~

~~(4) Provide prekindergarten education for a minimum of 35 weeks per academic year;~~

~~—(5) Conduct child development assessments of each child enrolled for at least four hours per week, using one or more instruments approved by the department of education and the department for children and families, at least two times per year, and report the results to the school district by June 30;—~~

~~(6) Provide parents with a report of their children's developmental progress at least two times per year, and offer parents at least two opportunities per year to meet with the teacher;—~~

~~(7) Describe and provide opportunities for parental participation;~~

~~—(8) Permit on-site visits, announced or unannounced, by school district staff and by representatives of the department of education and the department for children and families;—~~

~~(9) Participate in training which may be required for the purpose of fulfilling the provider's contractual obligations;—~~

~~(10) Maintain appropriate liability insurance coverage;—~~

~~(11) Complete reports for enrollment, attendance, child assessment, actual costs of prekindergarten education, finances and other areas, as required by state law, the department of education, and the school district; and—~~

~~(12) With respect to essential early education students who are enrolled in the prekindergarten education program, comply with all requirements of state and federal laws governing essential early education;—~~

~~(b) Establish payment provisions according to the following:—~~

~~(1) Use the template provided by the department agency of education and the department for children and families to establish the actual costs of operating the prekindergarten education program;—~~

~~(2) The actual cost shall serve as the basis for contract negotiations between the district and any prequalified private provider which proposes to provide prekindergarten education on behalf of the district;—~~

~~(3) The school district will pay the negotiated cost of providing the agreed upon services for up to 10 hours per week; part of the negotiated cost may include the school district's provision of a licensed teacher, and—~~

~~(4) Providers may not charge parents for services paid for by the school district. Providers may charge parents up to the difference between the actual cost of the contracted services and the amount paid for those services by the district. No district shall count any child in its ADM unless it is directly providing, or contractually paying to provide, at least six hours of prekindergarten services for that child unless the child receives EEE services.—~~

~~(2) A parent or guardian residing in a school district which provides prekindergarten education may request in writing that the school district enter into a contract with a prequalified prekindergarten education program within or outside of the district. The school district shall consider the request, and shall submit its determination and rationale, in writing, to the parent or~~

guardian, within 30 days of receiving the request;—

(3) ~~A prequalified private provider that meets the program quality standards and requisite staff qualifications which are specified in Sections 2606 and 2607 of these rules, may submit a written request to a school district that provides prekindergarten education for the purpose of entering into a contract to provide a prekindergarten education program, if the provider is located within the school district. The school district shall consider any such request, and shall submit its determination and rationale, in writing, to the provider, within 30 days of receiving the request. If denied, a provider may re-apply for the next academic year; and—~~

(4) ~~A prequalified private provider that meets the program quality standards and requisite staff qualifications set forth in Sections 2606 and 2607, and which is located outside of a school district that provides prekindergarten education, may submit a written request to such a school district that it be permitted to enter into a contract to provide a prekindergarten education program for one or more of the district's resident children.—Such provider shall include in its written request evidence that prekindergarten children who reside in such school district currently attend, or wish to attend, the provider's program. The school district shall consider any such request and shall submit its determination and rationale, in writing, to the provider, within 30 days of receiving the request. If denied, a provider may re-apply for the next academic year.—~~

2604 2608 Establishing or Expanding A School Operated Prekindergarten Education Program

(1) Prior to a school district's establishment or expansion of a school operated prequalified prekindergarten education program, as defined in Section 2602 (11) the school district shall complete an application and receive prior approval from the Agencies of Education and Human Services. engage the community in the town or city in a collaborative process in order to assess: Approval for establishment or expansion of a school operated prequalified prekindergarten education program shall be based upon:

(a) ~~The need for, and the level of support for, prekindergarten education within the community;—~~

(~~b~~a) The estimated number of three, ~~and~~ four ~~and five~~ year old children not yet enrolled in kindergarten in the region which includes the requesting school district and bordering districtscommunity; and

(~~e~~ b) ~~†The types, and locations and available enrollment opportunities of of early care and prequalified public and private prekindergarten education programs in the school district and bordering districtseducation programs that currently serve these children;—and—~~

(c) If data are not clear or other complex issues arise, the Secretaries of Education and Human Services may choose to conduct a community needs assessment prior to approval of establishment or expansion of a prequalified prekindergarten education program.

~~(c) An inventory of all existing early care and education providers located in the town and bordering towns which meet, or have the potential to meet, the quality standards set forth in Sections 2606 and 2607 of these rules;—~~

~~(2) The collaborative assessment process shall include parents, existing early child care and education providers, representatives of the regional early childhood council, and other community members;—~~

~~(3) The school district shall notify the commissioner of eEducation of its intention to conduct a community needs assessment.—~~

~~(4) The commissioner Secretary of eEducation and the commissioner of the department for children and families shall jointly develop and publish a template that school districts and communities shall use to conduct a needs assessment, and inventories of existing service providers. The template shall be developed with input from school districts and prekindergarten education providers;—~~

~~(5) Results of the school district's needs assessment and inventory of all existing service providers shall be used in the development of any proposal to establish or expand prekindergarten education. The proposal shall indicate whether—prekindergarten education will be provided through contracting with existing qualified private providers,—through operating a public school prekindergarten program, or both;—~~

~~(6) If a school district begins or expands prekindergarten education, the district shall use existing qualified private providers or potentially qualified providers to the extent that they have the interest to participate and have the capacity to meet the district's needs effectively and efficiently;~~

~~(7) The proposal shall be published and posted by the school district where school district notices are required by law to be posted, and open for public comments for at least 30 calendar days. The school district also shall notify qualified and potentially qualified prekindergarten education providers of its proposal. The Department of Education shall maintain an updated list of qualified and potentially qualified providers for this purpose. Additionally, a copy of the proposal must be filed with the commissioner of education; the commissioners of education and the department for children and families shall review the proposed plan to ensure that it complies with Act 62;—~~

~~(8) All community needs assessments and plans shall be completed at least 90 days prior to the start of the academic year. Community needs assessments and plans are valid until another expansion is planned.—~~

~~(9) A school district, after conducting the required collaborative community needs assessment, may limit the number or ages of children who are to be enrolled in the prekindergarten education program, in order not to exceed the number of children who may be included in its average daily membership as limited by the provisions of 16 V.S.A. § 4001(1)(C)(ii);—~~

~~(10) A school district may choose to go beyond the cap established in 16 V.S.A. § 4001(1)(C)(ii);—~~

~~and in so doing, may offer prekindergarten education to children who will not be eligible to be included in its average daily membership;~~

~~(11) In accordance with Sec. E.500.1-16 V.S.A. § 4001(1)(iii) of Act 159, school districts with any schools identified as making inadequate yearly progress may include within its average daily membership the total number of children enrolled in prekindergarten education offered by or through a school district.~~

~~(12) When a school board includes in its approved budget funds to provide prekindergarten education, and when the number of resident prekindergarten children who apply for prekindergarten education exceeds either the capacity and/or the number of prekindergarten children who may be included in the district's ADM, the school board shall design and implement a nondiscriminatory method of determining who will be enrolled and/or who will be included in the district's ADM. A school district that offers prekindergarten education by contracting with private providers shall consult with those private providers in developing the nondiscriminatory method. Districts which use federal and/or state funds or grants to support prekindergarten education, and those funds target specific populations, may prioritize serving those children in order to fulfill their grant obligations;~~

2609 Tuition

- (1) If a district is paying tuition for prekindergarten education on behalf of a prekindergarten child to a private prequalified prekindergarten education program or a public prequalified prekindergarten education program outside of the district, it shall pay for no fewer than 10 hours per week for 35 weeks per year for a full-time equivalent prekindergarten child. The tuition weeks shall be weeks that are within the district's academic year.
- (2) Tuition paid shall be at a statewide rate determined pursuant to the process set forth below in Section 2609(3) for 10 hours per week for 35 weeks annually of prekindergarten education that meets all established quality standards.
- (3) The statewide prekindergarten tuition rate is determined by using the National Institute of Early Education Research (NIEER) cost model for the cost of prekindergarten education adjusted for Vermont by cost of living and for 10 hours per week for 35 weeks annually of prekindergarten education. For the 2015-2016 school year the statewide tuition rate using this process is determined to be \$3000 per child for 10 hours per week for 35 weeks annually of prekindergarten education. This amount shall be adjusted each year thereafter by the New England Economic Project cumulative price index for state and local government purchases of goods and services as of November 15th each year.
- (4) A district's obligation to pay tuition shall arise upon:
 - a. The district receiving notice from the child's parent or guardian that the child is or will be admitted to a public or private prequalified prekindergarten education program; and
 - b. The concurrent enrollment of the prekindergarten child in the district of residence for purposes of budgeting and determining ADM.

- (5) Tuition paid by a district to a public or private prequalified prekindergarten education program shall:
- a. Be paid in accordance with a schedule that allows the prequalified prekindergarten education program to maintain financial stability;
 - b. Not inhibit the ability of a parent or guardian to enroll a prekindergarten child in the public or private prequalified prekindergarten education program;
 - c. Be made pursuant to an agreement complying with Section 2607 of these rules and requiring quality assurance, transition and other matters deemed necessary by the district, and an agreement by the program to notify the district when the child is no longer enrolled.
 - d. Be made in accordance with federal statutes and rules regarding the requirement that Title I funds shall supplement and not supplant the state and local funds expended on prekindergarten education in the state (20 U.S.C. §6321(b); 42 U.S.C. §9837(b)(2)(D)).
 - e. Be used by the program to fully cover the cost of ten hours per week for 35 weeks annually of prekindergarten education. If the tuition received by the program exceeds the actual cost of ten hours per week for 35 weeks annually of prekindergarten education, then the excess shall be applied to additional hours the child attends the prekindergarten program. A parent or guardian may only be charged for any hours that exceed ten hours per week for 35 weeks annually and that exceed the cost covered by the annual tuition received.
- (6) When presenting its annual budget to the voters, a district of residence shall include the direct costs of operating a prekindergarten education program and shall include any anticipated tuition payments and any administrative, quality assurance, quality improvement, transition planning and other prekindergarten-related costs.
- (7) Prequalified public or private prekindergarten providers may receive additional payment directly from the parent or guardian for prekindergarten education in excess of the hours paid for by the district or for child care services, or both. Prequalified private programs are not bound by the statewide rate in determining rates they will charge parents or guardians in excess of ten hours per week for 35 weeks annually.
- (8) Geographic Limitations:
- a. A school board may choose to propose to limit the geographic area within which it will pay tuition for prekindergarten education by establishing a “prekindergarten region.”
 - b. To establish a “prekindergarten region” a school board must submit an application to the Secretaries of Education and Human Services. At a minimum, any application must include:
 - i. A clearly defined proposed “prekindergarten region”;
 - ii. The rationale for requesting a “prekindergarten region”;
 - iii. The date[s] and summary[ies] of any public school board discussion on the proposed “prekindergarten region, including a copy of the notice warning the public about the discussion.
 - c. Approval of a “prekindergarten region” shall be determined jointly by the Agencies

of Education and Human Services in consultation with the requesting school board, private prequalified providers, parents and guardians of prekindergarten children and other interested parties pursuant to a process that includes:

- i. Applications due by November 15th and decisions made by February 15th of the subsequent year;
 - ii. Notice to the public and required parties;
 - iii. A public hearing in the proposed prekindergarten region; and
 - iv. Acceptance of written comments.
- d. A “prekindergarten region”:
- i. Shall not be smaller than the geographic boundaries of the school district;
 - ii. Shall be based in part on the estimated number of prekindergarten children residing in the district and bordering districts, the availability of public and private prequalified prekindergarten education programs, commuting patterns and other region-specific criteria; and
 - iii. Shall be designed to support existing partnerships between school districts and private providers of prekindergarten education.

(d) If a prekindergarten child is unable to access publicly funded prekindergarten within an approved “prekindergarten region,” the parent or guardian may request, and in its discretion the district may pay tuition at the statewide rate, for a prequalified prekindergarten education program located outside the district’s “prekindergarten region.”

(e) Approval of a prekindergarten region shall be for a period of 3 years, at which time application for renewal may be made by a district. A district may apply once annually for a change to the boundaries of the region.

[This section was moved above and modified]

2604 Contracting with Existing Qualified Prekindergarten Programs

—

~~(1) School districts that provide prekindergarten education by entering into contracts with existing qualified providers shall enter into written contracts which, at a minimum, shall include the following provisions:—~~

~~(a) That the qualified provider shall:—~~

~~(1) Maintain its status as a qualified prekindergarten education program in accordance with Sections 2606 and 2607 of these rules, and report any change in this status, including alleged or proven violations of program licensure or registration requirements, to the school district, within five days of such accusation or finding;—~~

~~(2) Adhere to federal and state laws on non-discrimination which apply to private providers;—~~

~~(3) Provide a developmentally appropriate curriculum which is aligned with Vermont’s early learning standards;—~~

~~(4) Provide prekindergarten education for a minimum of 35 weeks per academic year;~~

—

~~(5) Conduct child development assessments of each child enrolled for at least four hours~~

~~per week, using one or more instruments approved by the department of education and the department for children and families, at least two times per year, and report the results to the school district by June 30;—~~

~~(6) Provide parents with a report of their children's developmental progress at least two times per year, and offer parents at least two opportunities per year to meet with the teacher;—~~

~~(7) Describe and provide opportunities for parental participation;~~

~~——(8) Permit on-site visits, announced or unannounced, by school district staff and by representatives of the department Agency of education and the department for children and families;—~~

~~(9) Participate in training which may be required for the purpose of fulfilling the provider's contractual obligations;—~~

~~(10) Maintain appropriate liability insurance coverage;—~~

~~(11) Complete reports for enrollment, attendance, child assessment, actual costs of prekindergarten education, finances and other areas, as required by state law, the department of education, and the school district; and—~~

~~(12) With respect to essential early education students who are enrolled in the prekindergarten education program, comply with all requirements of state and federal laws governing essential early education;—~~

~~(b) Establish payment provisions according to the following:—~~

~~(1) Use the template provided by the department agency of education and the department for children and families to establish the actual costs of operating the prekindergarten education program;—~~

~~(2) The actual cost shall serve as the basis for contract negotiations between the district and any prequalified private provider which proposes to provide prekindergarten education on behalf of the district;—~~

~~(3) The school district will pay the negotiated cost of providing the agreed upon services for up to 10 hours per week; part of the negotiated cost may include the school district's provision of a licensed teacher, and—~~

~~(4) Providers may not charge parents for services paid for by the school district. Providers may charge parents up to the difference between the actual cost of the contracted services and the amount paid for those services by the district. No district shall count any child in its ADM unless it is directly providing, or contractually paying to provide, at least six hours of prekindergarten services for that child unless the child receives EEE services.—~~

~~(2) A parent or guardian residing in a school district which provides prekindergarten education may request in writing that the school district enter into a contract with a prequalified prekindergarten education program within or outside of the district. The school district shall consider the request, and shall submit its determination and rationale, in writing, to the parent or guardian, within 30 days of receiving the request;—~~

~~(3) A prequalified private provider that meets the program quality standards and requisite staff qualifications which are specified in Sections 2606 and 2607 of these rules, may submit a written request to a school district that provides prekindergarten education for the purpose of entering into a contract to provide a prekindergarten education program, if the provider is located within the school district. The school district shall consider any such request, and shall submit its determination and rationale, in writing, to the provider, within 30 days of receiving the request. If denied, a provider may re-apply for the next academic year; and—~~

~~(4) A prequalified private provider that meets the program quality standards and requisite staff qualifications set forth in Sections 2606 and 2607, and which is located outside of a school district that provides prekindergarten education, may submit a written request to such a school district that it be permitted to enter into a contract to provide a prekindergarten education program for one or more of the district's resident children. Such provider shall include in its written request evidence that prekindergarten children who reside in such school district currently attend, or wish to attend, the provider's program. The school district shall consider any such request and shall submit its determination and rationale, in writing, to the provider, within 30 days of receiving the request. If denied, a provider may re-apply for the next academic year.—~~
~~may request in writing that the school district enter into a contract with a prequalified prekindergarten education program within or outside of the district. The school district shall consider the request, and shall submit its determination and rationale, in writing, to the parent or guardian, within 30 days of receiving the request;—~~

~~2605 Districts Operating Prekindergarten Education Programs—~~

~~(1) Subject to the requirements of Rules 2603(5) and 2608(3), a school district may also provide prekindergarten education by establishing and operating a program either within a public school, or through a facility which is not physically part of a public school. All such district-operated prekindergarten education programs, regardless of where they are physically located, shall be licensed through the department for children and families, and shall be in good regulatory standing; and—~~

~~(2) Any district-operated prekindergarten education program shall:—~~

~~(a) Maintain its status as a qualified prekindergarten program in accordance with Sections 2606 and 2607 of these rules, and shall report any change in this status, including alleged or proven violations of program licensure or other requirements, to the department of education, within five days of such change;—~~

~~(b) Adhere to federal and state laws regarding non-discrimination;—~~

~~(c) Provide a developmentally appropriate curriculum which is aligned with—Vermont's early learning standards;—~~

~~(d) Provide prekindergarten education for a minimum of thirty five (35) weeks per academic year;~~

~~(e) Conduct child development assessments of each child enrolled for at least four hours per week, using one or more instruments approved by the department of education, at least two times a year, and report the results of those assessments to the department of education by July 30;—~~

~~(f) Provide parents with a report of their children's developmental progress at least twice per year, and offer parents at least two opportunities per year to meet with the teacher;—~~

~~(g) Describe and provide opportunities for parental participation;—~~

~~(h) Permit on-site visits, announced and unannounced, by representatives from the department of education and the department for children and families;—~~

~~(i) Complete reports for enrollment, attendance, child assessment, costs of prekindergarten education, finances and other areas as required by state law and the department of education; and~~

~~(j) Comply with all requirements of any applicable state and federal laws governing essential early education.—~~

[This section was moved above and modified]

~~2606 Pre-Qualified Prekindergarten Education Programs—~~

~~(1) Only children enrolled in prequalified prekindergarten education programs shall be included in a school district's ADM count. A prekindergarten education program shall be considered—~~

~~prequalified only if it meets all of the following criteria:—~~

~~(a) The public or private program receives and maintains at least one of the following quality program recognition standards:—~~

~~(1i) National accreditation through the National Association for the Education of Young Children (NAEYC);—~~

~~(2ii) A minimum of four stars in Vermont's Department for Children and Families Step Ahead Recognition System (STARS), with at least two points in each of the five arenas; or—~~

~~(3iii) Three stars in the STARS system if the program has a plan approved by the Commissioner for Children and Families and the commissioner Secretary of Education to achieve four or more stars within three two years, including at least two points in each of the five arenas, and if the program has met intermediate steps;—~~

~~(b) The program is currently licensed or registered, as applicable, by the department for children and families, and is in good regulatory standing;—~~

~~(c) The program's curricula are aligned with the Vermont Early Learning Standards;—~~

~~(d) The program provides opportunities for parental involvement and participation. These opportunities may include involvement in program development, policy work, program evaluation, curriculum development, and helping in the class; and—~~

~~(e) Program staff meets the professional standards described in Section 2607 of these rules.—~~

[This section was moved above and modified]

~~**2607 Staff Qualifications—**~~

~~In addition to meeting all the applicable early childhood program licensing regulations of the department for children and families, prequalified prekindergarten education programs shall meet the following staff qualifications:—~~

~~(1) Teachers in district-operated prekindergarten education programs shall be licensed with an endorsement in either early childhood education or early childhood special education;—~~

~~(2) Each contracted licensed center shall employ, or contract for the services of, at least one teacher who is licensed and endorsed in either early childhood education or early childhood special education;—~~

~~(3) The operator of each registered home shall either be a teacher who is licensed and endorsed in early childhood education or early childhood special education, or shall employ or contract for the services of at least one teacher who is licensed and endorsed in either early childhood education or early childhood special education, or in the alternative, shall receive regular, hands-on active training and supervision from a teacher who is licensed and endorsed in either early childhood education or early childhood special education. Under this last arrangement, the regular, active training and supervision shall occur at least three hours per week, and during each of the 35 weeks per year in which ADM-counted children are enrolled. The registered home shall maintain appropriate written documentation of the supervision on location; and—~~

~~(4) Nothing in these rules shall be construed as restricting the ability of a district or a prequalified private provider from filling a staff position with an individual who holds a provisional or emergency license. Under such circumstances, however, the district, the prequalified private provider, and the holder of the provisional or emergency license, shall meet all of the terms and conditions of VSBPE Rules 5350-5364 and their successor rules. When a private provider is unable to employ a licensed educator for the purpose of becoming a prequalified private provider, a superintendent may, on behalf of the requesting private provider, and pursuant to the terms and conditions of VSBPE Rules 5350-5364 and their successor rules, apply to the department of education for a provisional or emergency license for one or more individual(s) whom the qualified private provider wishes to have provide prekindergarten program services under these rules. Under such circumstances, the superintendent shall monitor the progress and completion of the required two year plan for obtaining a Level I license. The mere act of a superintendent applying, on behalf of a prequalified private provider, for a provisional or emergency license, shall not obligate the district to contract with that (or any other) prequalified private provider.~~

2608 2610 Reporting the Costs of Prekindergarten Education

(1) To ensure transparency and accountability for prekindergarten education costs, school districts shall submit financial reports on forms provided by the ~~commissioner~~ Secretary of ~~e~~Education, detailing their costs for prekindergarten education on an annual basis, and in accordance with the following provisions:

(a) Providers under ~~contract~~ an agreement with a school district shall report to the ~~contracting~~ district all allowable prekindergarten education costs as specified in their ~~contracts~~agreements, on forms provided by the ~~commissioner~~ Secretary of Education; and

(b) School districts shall compile the financial reports from all of their ~~prequalified prekindergarten education programs to whom they pay tuition~~ contracted prekindergarten education programs, and shall report those costs to the ~~commissioner~~ Secretary of Education on or before August ~~1~~ 15th of every year;

(2) School districts shall report their expenditures for both ~~contracted and~~ district-operated ~~and~~ out-of-district prekindergarten education programs and for EEE services ~~essential early education~~, by source of funds (e.g., ~~education fund~~, state ~~grant~~, or federal funds), to the ~~commissioner~~ Secretary of Education, on or before August 1 of every year; and

(3) School districts shall specify the identifiable costs for prekindergarten education and ~~essential early education~~ EEE services in their annual budgets, and in their annual reports to the community.

2609 2611 Reporting on the Effects of Prekindergarten Education

(1) Each ~~school~~ district shall provide annual data to the Secretary of Education on the progress of all of its resident children who are ~~both~~: (a) attending enrolled in a prequalified prekindergarten education program ~~for four or more hours; and or~~ (b) included in its average daily membership.; ~~to the commissioner of education.~~

(2) The ~~school~~ district shall; require all public and private prequalified prekindergarten education programs to use the state approved on-line child assessment tool for all enrolled children included in its ADM~~after consultation with its own and contracted prekindergarten education providers, select one or more assessment instruments from the state approved list in order to measure its prekindergarten children's level of development~~ during the beginning of the year and again during the last weeks of the program on an annual basis. ~~and~~

(3) Each ~~school~~ district shall ensure that child assessment data are complete for all children included in its ADM no later than June 30th of each year. ~~compile and report the results of the assessments which are to be conducted hereunder, and shall do so in accordance with the guidance which shall be provided by the commissioner of education and the commissioner for children and families.~~

2612 Monitoring

(1) The Agency of Education and Department for Children and Families shall jointly monitor and evaluate all public and private prekindergarten education programs to promote optimal outcomes for children and to collect data to inform future decisions. The state approved system for monitoring prekindergarten programs shall include, but not be limited to collecting and evaluating information and data regarding:

- a. The programmatic details, including number of children served, number in public and private prekindergarten education programs operated, and the public financial investment made;
- b. The quality of the public and private prekindergarten education programs and efforts to ensure continuous quality improvements through mentoring, training, technical assistance, and otherwise; and
- c. The outcomes for children enrolled in public and private prekindergarten education program, including school readiness and proficiency in numeracy and literacy.
- d. The effects, if any, on equality of opportunities between private and public programs regarding socioeconomic stratification, equality of access, staff qualifications, quality of program and other relevant variables.

2613 Quality Standards

The Agencies of Education and of Human Services shall review existing program and personnel quality standards (Sections 2604 and 2605) for prekindergarten education programs and determine if higher standards are appropriate. Rulemaking may be initiated under 3 V.S.A. chapter 25 to require higher standards of quality; however no new standards may take effect earlier than July 1, 2016. Any changes to the quality standards shall be designed to ensure that programs are based on intentional, evidence-based practices that create a developmentally appropriate environment and support the delivery of an engaging program that supports the social, emotional, intellectual,

language, literacy, and physical development of prekindergarten children.

2610 2614 Grounds for Administrative Complaint Procedures Appeal Regarding a School District's Prekindergarten Education Program

The following actions of a school district may be made the subject of an administrative appeal:—

(1) A parent or guardian of a prekindergarten child, or an existing provider, may appeal a district's determination regarding whether an existing provider meets the standards set forth in Rule 2606 or Rule 2607;—

(2) A parent or guardian of a three or four year old child, or of a five year old child not yet eligible for or enrolled in kindergarten or, a potential qualified provider, may appeal a district's proposed plan to establish or expand prekindergarten education, on the grounds that the plan was formulated in violation of these rules;—

(3) A parent or guardian of a prekindergarten child, or a qualified provider, may appeal a district's rejection of a request pursuant to Rule 2604(2), (3) or (4) or its compliance with the requirements of Rule 2603, on the grounds that the district did not conform to the procedural requirements of an applicable statute or rule;—

Whenever issues arise, parties should attempt to resolve the issue prior to going into a formal administrative complaint process. If parties are unable to resolve an issue informally, the following process is available for resolution:

(1) A parent or guardian of a prekindergarten child or a prekindergarten education program may challenge an action of a district or the State on the grounds that it is in violation of state statute or these rules through an administrative complaint process.

(2) A school district may challenge an action of a prekindergarten education program or the State through an administrative complaint process when the district believes the prekindergarten education program or the State is in violation of the state statute or these rules.

(4) (3) Appeals Complaints shall be filed in writing by the appellant complainant with both the Secretary of Education and the commissioners Secretary of Human Services, within 30 calendar days of the alleged violation which gives rise to the appeal complaint. Written appeals complaints must contain a description of the facts upon which the appellant complainant relies and an explanation of why the appellant complainant believes that the district's actions violated the requirements of the statute or rule. The appellant complainant shall also provide copies of the written appeal complainant to all parties within the time limits allowed by these rules;

(5) For purposes of appeals complaints under this rule, party status shall be limited to the appellant complainant(s) and the school district or State. The school district or State shall have 15 working days from receipt of the appellant's complainant's submission to respond in writing to the submission, and shall provide copies of its response to all parties;

(6) Appeals Complaints shall be considered jointly by the commissioners Secretaries of Education and Human Services children and families or their counsels. The Secretaries commissioners may request additional written submissions from one or both of the parties, and

under such circumstances, copies of both the request(s) and the response(s) shall be sent to all parties by the ~~Secretaries~~ ~~commissioners~~. The ~~Secretaries~~ ~~commissioners~~, in their discretion, may hold a hearing, in accordance with Rule 1230 of the State Board of Education Rules, either at the request of one or more of the parties, or on their own initiative;

(7) The burden of proof shall be on the ~~complainant~~ ~~appellant~~. The standard of review shall be by a preponderance of the evidence; and

(8) The ~~commissioners~~ Secretaries shall confer with the parties and jointly issue a written decision within 15 working days of the close of the record, and the ~~commissioners~~² decision shall be final. If the ~~commissioners~~ Secretaries do not reach an agreement, the ~~appeal~~ complaint fails.

DRAFT

~~2611~~ 2615 Effective Date

~~These rules shall become effective on July 1, 2008. School districts that have been providing prekindergarten education either through contracts with private providers and/or district operated programs and including prekindergarten children in their ADM count prior to the effective date of these rules, shall have until July 1, 2009 to comply with sections 2604(1)(b), 2606(1)(a), and 2609 of the rules.~~

These Rules shall become effective on July 1, 2015 and shall apply to enrollments on that date and thereafter.

~~2612 Repeal 9200.4~~

~~Repeal State Board of Education rule 9200.4 on calculating the Full-time Equivalent of Essential Early Education/Prekindergarten Pupils.~~